

1. The Court issued its June 13, 2024 Order setting the evidentiary hearing for June 26, 2024 at 1:30 p.m. with the following pertinent deadlines:

IT IS FURTHER ORDERED that the parties shall exchange and file anticipated witness lists no later than June 19, 2024.

IT IS FURTHER ORDERED that the parties shall exchange and file anticipated exhibits no later than June 19, 2024.

2. The Court intended what it said: all witnesses had to be identified, and all anticipated exhibits had to be exchanged, by June 19, 2024.
3. The Court did not allow for late-listed witnesses or exhibits. The Court did not allow for rebuttal witnesses.
4. The MineOne Defendants first gave notice of a late-listed witness, Ed Deignan, to opposing counsel on Saturday night, June 22, 2024. The MineOne Defendants did not disclose anything about Ed Deignan other than his name. The MineOne Defendants have not supplemented their late and inadequate designation of Mr. Deignan as a witness or an expert witness.
5. Given the May 15, 2024 – June 19, 2024 pleadings in this case, the MineOne Defendants either knew or should have reasonably anticipated calling Mr. Deignan as a witness at the June 26 evidentiary hearing. Mr. Deignan is not a rebuttal witness. Mr. Deignan should have been timely disclosed on MineOne’s June 19, 2024 witness list. But he was not.
6. MineOne has not provided any reason, or rationale or excuse for not listing or exchanging their 17 new exhibits – Exhibit Nos. 30-46 – on the June 19, 2024 witness exchange deadline. All of these 17 new exhibits should have been listed and exchanged with opposing counsel on June 19, 2024. But they were not.

7. Plaintiff BCB would be unfairly prejudiced having to defend against this newly-listed witness, for whom no meaningful designation was proffered, and for having to defend against all of these 17 late-listed exhibits.

IT IS THEREFORE ORDERED that Ed Deignan is stricken as a witness for the June 26, 2024 evidentiary hearing, and is not allowed to testify at the evidentiary hearing, and

IT IS FURTHER ORDERED that the Defendants shall not be allowed to use or introduce, as hearing exhibits, any of the 17 late-listed exhibits marked as MineOne Defendants' Hearing Exhibits 30-46.

DATED this _____ day of June, 2024.

BY THE COURT: _____
United States District Judge